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Compilation on Poland

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of the information contained in the reports of treaty bodies and special procedures and other relevant the United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1,2]

2. Several treaty bodies recommended that Poland ratify the International Convention for the Protection of All Persons from Enforced Disappearance[3] and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.[4] The Committee on the Rights of the Child, the Committee against Torture and the Special Rapporteur on the right to food recommended that Poland ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.[5] The Committee against Torture, the Committee on Economic, Social and Cultural Rights and the Special Rapporteur recommended that Poland ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.[6]

3. The Office of the United Nations High Commissioner for Refugees (UNHCR), the Committee on the Rights of the Child and the Committee against Torture urged Poland to consider acceding to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.[7]

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4. The Committee on the Rights of the Child encouraged Poland to consider withdrawing its interpretative declaration regarding articles 12 to 16 and 24 of the Convention on the Rights of the Child.[8]

5. The Committee on Economic, Social and Cultural Rights recommended that Poland ensure that all provisions of the Covenant were given full effect in its domestic legal order and could be invoked before courts.[9]

6. The United Nations High Commissioner for Human Rights visited Poland and paid respects at Auschwitz in 2013.[10] Poland had contributed annually to OHCHR since 2012.[11]

7. Poland submitted a midterm report on the implementation of the recommendations made in its second review cycle.[12]

III. National human rights framework[13]

8. Several treaty bodies were concerned about the limited resources allocated to the Office of the Commissioner for Human Rights, which jeopardized its ability to exercise its mandate.[14] The Human Rights Committee and the Committee on Economic, Social and Cultural Rights recommended that Poland provide the resources necessary to the Office to ensure it could implement its mandate effectively, independently and fully.[15]

9. The Committee on the Elimination of Racial Discrimination was concerned that the Office of the Commissioner had no statutory mandate to consider petitions from victims of racial discrimination concerning incidents that occurred in the private area.[16]

10. The Committee on the Elimination of Discrimination against Women recommended that Poland strengthen the mandate and authority of the Government Plenipotentiary for Equal Treatment and that it increase the Plenipotentiary's financial and human resources, while providing it with a separate budget to support its gender equality activities.[17]

11. The Human Rights Committee recommended that Poland consider either reinstating the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, or establishing an alternative multi-stakeholder institution with the objective of preventing discrimination and intolerance.[18] UNHCR made a similar recommendation.[19]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[20]

12. The Human Rights Committee and the Committee on Economic, Social and Cultural Rights recommended that Poland amend the Act on Equal Treatment to prohibit discrimination comprehensively on all grounds prohibited under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, including sexual orientation, disability, religion, age and political opinion, and in all spheres and sectors, including education, health care, social protection and housing.[21] The Committee on the Rights of the Child made a similar recommendation.[22]

13. The Human Rights Committee was concerned that the Criminal Code did not refer to disability, age, sexual orientation or gender identity as grounds for hate crimes.[23] The Committee against Torture recommended that Poland amend the Code to punish hate

crimes and acts of discrimination and violence based on sexual orientation, disability or age.[24] The Committee on the Rights of the Child made a similar recommendation.[25] The Committee on the Elimination of Racial Discrimination recommended that Poland amend its Criminal Code to make any racial motivation of a crime an aggravating circumstance and to allow for enhanced punishment to combat the occurrence of such acts.[26]

14. The Human Rights Committee was concerned about the reported increase in the number of incidents of violence, hate speech and discrimination based on race, nationality, ethnicity, religion and sexual orientation and the insufficient response by the authorities to such incidents.[27]

15. The Committee on the Elimination of Racial Discrimination was concerned by reports that some victims of hate crimes were unwilling to report incidents owing to doubts about the ability and interest of law enforcement officials in providing adequate recourse. It recommended that Poland establish an independent body to receive complaints of police violence or abuse and take the measures necessary to ensure that persons belonging to minority groups were recruited into the police.[28]

16. The Committee expressed concern about reports that at least four far-right organizations remained active despite a 2009 court decision in Brzeg to ban organizations that promoted fascism and totalitarian regimes.[29] It recommended that Poland enforce effectively those laws that declared as illegal any party or organization that promoted or incited racial discrimination.[30]

17. The Committee recommended that Poland seek efficient means to combat racism in sport, including by imposing fines on clubs for the racist acts of their supporters, and that it continue to work with sporting associations to promote tolerance and diversity.[31]

18. The Committee against Torture was concerned at the prevalence of racial violence and other acts of racial abuse targeting persons of Arab, Asian or African origin, and manifestations of anti-Semitism.[32] The Committee on the Elimination of Racial Discrimination was concerned about information regarding the attitude of certain Polish authorities that had discontinued investigations in some cases of anti-Semitism on the grounds that the victim had not belonged to the Jewish community.[33]

19. UNHCR mentioned reports of a sharp increase in xenophobic and discriminatory attitudes towards asylum seekers and beneficiaries of international protection. Some of the incidents involved the reluctance of communities to accept reception centres.[34]

20. The Committee against Torture was concerned at persistent discrimination against members of the Roma community.[35] The Committee on the Rights of the Child urged Poland to conduct campaigns at all levels and in all provinces to address the negative attitudes towards Roma in society at large.[36]

21. The Committee on the Elimination of Discrimination against Women pointed to the limited effectiveness, if any, of measures to counter negative stereotypes against Roma women, lesbian, bisexual, transgender and intersex women and women with disabilities.[37]

22. The Human Rights Committee recommended that Poland review the legal status of same-sex couples and parents with a view to ensuring their enjoyment of the right to non-discrimination in law and in fact.[38]

2. Development, the environment, and business and human rights[39]

23. The Committee on the Rights of the Child was concerned that the child sex tourism industry was reportedly growing in border regions and recommended that Poland examine and adapt its legislative framework to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the territory of Poland.[40]

3. Human rights and counter-terrorism[45]

24. The Committee against Torture was concerned about lengthy delays in the investigation process into the alleged complicity of Poland in rendition and secret detention programmes of a third country between 2001 and 2008, which allegedly involved torture and ill-treatment of persons suspected of involvement in terrorism-related crimes. It was also concerned about the secrecy surrounding the investigation and the failure to ensure accountability in the cases. It recommended that Poland inform the public, ensure its investigation process was transparent and cooperate fully with the European Court of Human Rights on the rendition and secret detention cases against Poland.[46] The Human Rights Committee made similar recommendations.[47]

25. The Committee recommended that Poland review its legislation on counter-terrorism of June 2016 to ensure that the Criminal Code not only defined terrorist crimes in terms of purpose, but also narrowly defined the nature of these acts, and included a precise definition of "terrorist incidents" that did not give the authorities excessive discretion or obstruct the exercise of the rights under the International Covenant on Civil and Political Rights.[48]

B. Civil and political rights

1. Right to life, liberty and security of person[49]

26. The Committee against Torture regretted that, despite its previous recommendations on the matter, Poland still maintained its position on not incorporating into domestic law the definition of torture in accordance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It was seriously concerned that the other provisions of the Criminal Code that were "applied in cases of torture" did not reflect the gravity of the crime of torture and therefore did not provide for commensurate punishment for the perpetrators. It recommended that Poland include torture as a separate and specific crime in its legislation.[50] The Human Rights Committee made a similar recommendation.[51]

27. The Committee against Torture recommended that Poland undertake promptly an effective and impartial investigation whenever there were reasonable grounds to believe that an act of torture or ill-treatment had been committed.[52] It urged Poland to take immediate legal and other measures to ensure that victims of torture and ill-treatment obtained redress and had an enforceable right to fair and adequate compensation.[53] The Human Rights Committee made similar recommendations.[54]

28. In relation to overcrowding in prisons, the Committee against Torture was concerned at reports that approximately 40,000 convicts were awaiting enforcement of their punishment and some 12,000 Polish prisoners were expected to be returned from other countries.[55]

29. The Committee was also concerned that dangerous "N" status inmates were often kept in worse conditions than others for long periods of time and that their status was not reviewed regularly.[56]

2. Administration of justice, including impunity, and the rule of law[57]

30. In December 2015, OHCHR expressed concern about the speed with which the parliament was adopting changes affecting the Constitutional Tribunal, noting that reforms of such far-reaching importance should be the product of broad public consultation.[58]

31. The United Nations High Commissioner for Human Rights stated that the constitutional crisis was regrettable. He took note of an opinion issued by the European Commission and encouraged Poland to cooperate under the European Union rule of law

framework and benefit from the expertise of the country's highly respected Office of the Commissioner for Human Rights.[55]

12. The Human Rights Committee was concerned about the negative impact of legislative reforms, including the amendments of November and December 2015 and July 2016 to the law on the Constitutional Tribunal, and the fact that some judgments of that Tribunal had been disregarded regarding its functioning and independence and regarding the implementation of the Covenant. It was also concerned about the refusal of the Prime Minister to publish the Tribunal's judgments of March and August 2016 regarding the efforts of the Government to change the composition of the Tribunal in ways that the Tribunal regarded as unconstitutional, and regarding the legal proceedings initiated against the President of the Tribunal for alleged abuse of power.[56]

13. The Committee recommended that Poland ensure respect for and protection of the integrity and independence of the Tribunal and its judges and ensure the implementation of all its judgments. It urged Poland to publish all the judgments of the Tribunal immediately; refrain from introducing measures that could obstruct its effective functioning; and ensure a transparent and impartial process on appointing its members and on security of tenure that met all the requirements of legality under domestic and international law.[57]

14. The Committee recommended that Poland take immediate steps to protect the full independence and impartiality of the judiciary; guarantee its freedom to operate without interference; and ensure the above-mentioned processes on appointments and security of tenure.[58]

15. The Committee against Torture was concerned that lengthy court proceedings had created a backlog in the court system.[59] The Human Rights Committee recommended that Poland ensure the right to a fair trial without undue delay.[60]

16. The Committee against Torture recommended that Poland end the practice of extending pretrial detention beyond the maximum period prescribed by law.[61] The Human Rights Committee recommended that Poland continue to reduce the length of pretrial detention and adopt non-custodial alternatives; review periodically the length of pretrial detention to determine its necessity and guarantee the right to a trial within a reasonable time; and limit the application of pretrial detention under the Code of Criminal Procedure and the counter-terrorism law.[62]

17. The Committee against Torture was concerned that prison authorities reserved the right to be present at all meetings between detainees and their defence counsel and to monitor their telephone communications and correspondence.[63] The Human Rights Committee recommended that Poland ensure that all communication between counsel and the accused remained confidential.[64]

18. The Committee against Torture remained concerned at the lack of an appropriate system of legal aid.[65] The Committee on the Rights of the Child was concerned that there was no State-funded, free legal assistance for asylum seekers, including for unaccompanied children.[66]

19. The Human Rights Committee recommended that Poland ensure that all detainees, including juveniles, had unhindered, prompt and adequate access to the lawyer of their choice or free legal aid from the outset of the detention.[67]

20. The Committee on the Rights of the Child was concerned that the 2014 amendment to the Juvenile Justice Act, which established uniform juvenile justice procedings that applied the procedures of the Civil Procedure Code, might deprive children of procedural guarantees provided under the Criminal Procedure Code, such as the presumption of innocence and the right to counsel.[68]

3. Fundamental freedoms and the right to participate in public and political life[69]

41. The Committee on the Rights of the Child was concerned at incidents of children belonging to religious minorities not being offered classes in their own religion in public schools and having to participate in Catholic religion classes instead. It was also concerned that grades obtained in Islamic religion classes were not always recorded on school certificates.[70]

42. The Human Rights Committee recommended that Poland review its laws on defamation and insulting State symbols, senior officials and religion, and consider decriminalizing defamation by amending the Criminal Code.[71] The United Nations Educational, Scientific and Cultural Organization (UNESCO) made a similar recommendation.[72]

43. The Human Rights Committee was concerned about past and proposed legislative changes regarding public broadcasting services, which appeared retrogressive in terms of protecting guarantees regarding their independence.[73]

44. The Committee recommended that Poland review the draft law under which anyone who referred to Nazi camps in occupied Poland during the Second World War as Polish could be imprisoned for up to three years.[74]

45. The Committee on Economic, Social and Cultural Rights recommended that Poland implement as soon as possible the legislative changes required by the 2015 judgment of the Constitutional Tribunal on the right of persons employed under civil law contracts to join or establish trade unions.[75] The International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations trusted that Poland would adopt a draft act amending the Act on Trade Unions to guarantee the right of all workers, without distinction, to establish and join organizations of their own choosing.[76]

4. Prohibition of all forms of slavery[77]

46. The Committee on the Elimination of Discrimination against Women regretted the limited measures taken to reduce the demand for prostitution and to provide alternative income-generating opportunities for women who wished to leave prostitution.[78]

47. The Committee welcomed amendments to the Criminal Code to include a definition of trafficking and penalize the perpetration of that crime.[79] The Committee on the Rights of the Child welcomed the amendment to the Criminal Code that expanded the scope of trafficking to include trafficking for labour exploitation.[80]

48. The Committee was concerned that lack of awareness among prosecutors and judges had resulted in a low rate of conviction of perpetrators of trafficking, a high rate of less severe or suspended sentences and inappropriate decisions on the protection of child victims.[81]

49. The Human Rights Committee recommended that Poland introduce into the Criminal Code a provision to exempt victims of trafficking from prosecution for activities they had been involved in as a direct consequence of being trafficked; establish a mechanism to identify vulnerable persons within the migration flow; prohibit forced labour; investigate allegations of trafficking, prosecute alleged perpetrators and punish with appropriate sanctions those convicted; and provide victims with access to legal assistance and reparation.[82]

5. Right to privacy and family life[83]

50. The Human Rights Committee was concerned about the surveillance and interception powers of Polish intelligence and law enforcement authorities, as reflected in

the counter-terrorism law and 2016 act amending the Police Act and certain other acts. It recommended that Poland review its counter-terrorism legislation and ensure that any interference with the right to privacy therein complied with the principles of legality, necessity and proportionality.[84]

51. The Committee on the Rights of the Child was concerned at the tendency of family court judges to place children in institutional care rather than prioritize the provision of support to the family of origin or choose placement in family-based care; and that restriction of contact with the family of origin was used as a form of punishment for children placed in foster care.[85]

52. The Committee recommended that Poland reduce as a matter of urgency the placement of children under the age of 3 years in residential care institutions and that it review and consider amending the Family Support and Foster Care System Act and the Human Capital Development Strategy to abolish pre-adoption centres for children under 1 year of age and avoid large residential-care institutions.[86]

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work[87]

53. The Committee on Economic, Social and Cultural Rights recommended that Poland ensure access to basic services and labour and social protection for those working in the informal economy; empower the National Labour Inspectorate to inspect all sectors of the economy and increase its resources and capacity; and protect migrant workers from all forms of exploitation and abuse.[88]

54. The Committee on the Elimination of Discrimination against Women recommended that Poland take measures to overcome the obstacles preventing the submission of complaints of sexual harassment in the workplace to the Office of the Commissioner,[89] and that it strengthen the mandate of the National Labour Inspectorate to investigate complaints of gender discrimination and, in particular, sexual harassment.[90]

55. The Committee on Economic, Social and Cultural Rights recommended that Poland take all measures appropriate to reduce progressively the use of temporary employment; continue to increase the minimum wage to ensure it provided a decent living for workers and their families; and ensure that the labour and social security rights of persons with civil law contracts were fully guaranteed in law and in practice.[91]

2. Right to social security[92]

56. The Committee on Economic, Social and Cultural Rights recommended that Poland adopt measures towards unifying the pension system and standardizing rules and regulations; guarantee coverage and appropriate benefits for all workers and non-contributory benefits for all disadvantaged and marginalized individuals and families; calculate social assistance benefits on the basis of an accurate poverty assessment; and address the practical difficulties faced by disadvantaged and marginalized individuals and groups in seeking and receiving assistance.[93]

3. Right to an adequate standard of living[94]

57. The Special Rapporteur on the right to food was concerned that there was no disaggregated data on poverty and extreme poverty levels in rural and urban areas, with a specific focus, inter alia, on gender, age, education, wealth and family size.[95] The Committee on Economic, Social and Cultural Rights recommended that Poland step up its efforts to guarantee targeted support to all persons living in poverty or at risk of poverty[96]

and to address food insecurity and malnutrition among disadvantaged and marginalized individuals and groups.[97]

58. The Committee on the Elimination of Racial Discrimination was concerned about information that non-citizens, particularly migrants and refugees, faced discrimination in housing, as landlords were often reluctant to lease apartments to foreign nationals or to sign agreements with them.[98]

4. Right to health[99]

59. The Committee on Economic, Social and Cultural Rights recommended that Poland intensify its efforts to ensure that adequate health-care services were available and accessible for everyone, including disadvantaged and marginalized individuals and groups.[100]

60. The Committee recommended that Poland increase the provision of financial and human resources for mental health services; guarantee full respect for the human rights of patients in psychiatric institutions, including through independent and effective monitoring of treatment and through effective judicial review of orders for confinement to psychiatric institutions; ensure that treatment was provided on the basis of free and informed consent; and promote alternative forms of mental health treatment, including outpatient treatment.[101]

61. The Committee against Torture and the Human Rights Committee were concerned about clandestine abortions, which might put the lives and health of women at risk.[102] The Committee on the Elimination of Discrimination against Women recommended that Poland amend the 1993 Act on Family Planning, Human Fetus Protection and Preconditions for the Admissibility of Abortion to make the conditions for abortion less restrictive; establish clear standards for a uniform and non-restrictive interpretation of the conditions for legal abortion, so that women could have access to it without limitations due to the excessive use by medical personnel of the so-called "conscientious objection" clause; and ensure effective remedies for contesting refusals of abortion, within the revision of the Act on Patient Rights.[103] The Committee on the Rights of the Child made similar recommendations.[104]

62. The Committee recommended that Poland expand the scope of the compulsory course on family life education to provide comprehensive and age-appropriate education on sexual and reproductive health; and ensure unimpeded access to sexual and reproductive health services.[105] The Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights made similar recommendations.[106]

5. Right to education[107]

63. The Committee on the Rights of the Child remained concerned that children living in rural areas and small towns still faced inequality in gaining access to quality education.[108] The Committee on Economic, Social and Cultural Rights recommended that Poland ensure that such children and those who were asylum seekers or undocumented migrants had free access to quality compulsory primary education, and that it encourage education in rural and remote areas.[109]

64. The Committee on the Elimination of Discrimination against Women remained concerned about structural barriers negatively affecting the enrolment of girls and women in non-traditional educational and vocational fields and gender segregation in the educational system.[110]

65. UNHCR and the Committee on the Rights of the Child remained concerned that asylum-seeking children placed in detention centres did not have access to full-time education.[111] The Committee on the Elimination of Racial Discrimination recommended that Poland fully implement the revised Act on the Education System to address the

educational difficulties that asylum-seeking children faced by providing language classes or tutorial assistance in their mother tongue.[112]

66. The Committee on the Rights of the Child remained concerned that children with HIV/AIDS tended to be segregated in preschool and compulsory education.[113]

D. Rights of specific persons or groups

1. Women[114]

67. The Committee on the Elimination of Discrimination against Women recommended that Poland review the Act on Equal Treatment to ensure that anti-discrimination legislation contained a definition of discrimination against women explicitly prohibiting sex- and gender-based discrimination.[115]

68. The Committee was concerned about the low number of complaints of sex- and gender-based discrimination where compensation had been awarded; [116] the limited application of administrative sanctions; and the inadequate means of redress in cases of sex- and gender-based discrimination. [117] It recommended that Poland ensure the effective application of administrative sanctions by the Office of the Commissioner.[118]

69. The Committee was concerned at the reported increase of stereotypical and sometimes degrading media images of women, which perpetuated sexual violence, including rape, and at the absence of revised textbooks.[119] The Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee were concerned about persistent stereotypes concerning the roles and responsibilities of both genders in the family and in society.[120]

70. The Committee on the Elimination of Discrimination against Women urged Poland to adopt a comprehensive strategy aimed at preventing and eliminating all forms of violence against women; [121] amend the Criminal Code with a view to specifically criminalizing domestic violence and marital rape; include a definition of violence against women in the Act on Countering Domestic Violence; [122] and systematically institute criminal proceedings, end the use of reconciliatory mediation for victims of domestic violence, prosecute alleged perpetrators and punish those found guilty of such acts.[123] The Committee against Torture, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights raised similar concerns and made recommendations.[124]

71. The Committee on the Elimination of Discrimination against Women recommended that Poland adopt temporary special measures to promote access for women to employment; review its legislation and policies to promote equal opportunities for and equal treatment of women in employment; and ensure equal remuneration for work of equal value.[125] The Committee on Economic, Social and Cultural Rights and the Human Rights Committee made similar recommendations.[126]

72. The Committee on the Elimination of Discrimination against Women encouraged Poland to amend the Electoral Act with a view to placing male and female candidates in alternating positions on electoral lists; and to adopt temporary special measures to achieve the equal and full participation of women in political and public life and in decision-making at all levels.[127] The Human Rights Committee and the Committee on Economic, Social and Cultural Rights made similar recommendations.[128]

73. The Committee on the Elimination of Discrimination against Women recommended that Poland facilitate the participation of rural women in decision-making processes at the local level, particularly in the boards of *voivodeship* (regional) agricultural chambers, so as to address the high risk of female poverty in rural areas.[129]

2. Children[130]

74. The Committee on the Rights of the Child commended Poland for legislating a total ban on corporal punishment in all settings. However, it was concerned that corporal punishment was still used in schools, youth centres and alternative-care facilities.[131]

75. The Committee was concerned about ill-treatment of children in police emergency youth centres, youth shelters or reform schools, including extended periods of detention in a transitional facility, penalties not compliant with the regulations, constraints on correspondence and complaints and restrictions on visits.[132]

76. The Committee was seriously concerned that a large number of children were still detained in juvenile shelters for extensive periods of time prior to and during correctional proceedings, and that children over the age of 13 years who were reasonably suspected of or convicted of a punishable act could be detained at police emergency centres.[133]

77. The Committee noted with concern cases of forced marriages of girls in situations of migration and refugee and asylum-seeking girls.[134]

78. The Committee was concerned that a number of cases of sexual abuse of children by clergy might not yet have surfaced and that such abuse might still be ongoing.[135]

79. The Committee was concerned that, in criminal proceedings relevant to sexual exploitation of the child, the burden of proof tended to be placed on the child victims rather than offenders.[136]

80. The Committee was concerned that there was neither systematic effort to protect and support children engaged in begging, nor consistent policy as to what kind of protection measures would safeguard the best interests of the child.[137]

81. The Committee and the Special Rapporteur on the right to food expressed concern about child poverty.[138] The Committee was concerned about the increase of homeless children and recommended that Poland review its legislation, policies and programmes on housing to prevent and eliminate homelessness.[139]

82. The Committee reiterated its previous recommendation that Poland establish an identification mechanism for children, including asylum-seeking and refugee children, who might have been involved in armed conflict abroad and provide such children with appropriate assistance for their physical and psychological recovery and social reintegration.[140]

3. Persons with disabilities[141]

83. The Human Rights Committee was concerned that, according to the Constitution, persons who, by a final court judgment, had been subjected to legal incapacitation or deprived of public or electoral rights, had no right to participate in a referendum or to vote. As a result, any person with mental and intellectual disabilities who was subject to incapacitation had no voting rights.[142]

84. The Committee on the Rights of the Child was concerned that, despite the progress made in deinstitutionalization, many children with disabilities still lived in institutions.[143]

85. The Committee was concerned that access to health and rehabilitation services by children with disabilities was particularly impeded, owing to the physical barriers to health service facilities and a lack of available services.[144]

86. The Committee recommended that Poland guarantee all children with disabilities the right to inclusive education in mainstream schools, and that it develop a system at the local level to monitor the management of education subsidies dedicated to children with

disabilities in order to ensure the provision of reasonable accommodation and support for each child with a disability.[145]

4. Minorities[146]

87. The Committee on Economic, Social and Cultural Rights recommended that Poland review its legislation and various programmes for unemployed persons to determine how access to employment could be improved for target groups, including Roma.[147]

88. The Committee on the Rights of the Child was concerned that Roma families with children living in informal settlements faced forced eviction.[148] The Committee on Economic, Social and Cultural Rights recommended that Poland facilitate access to social housing for Roma, encourage legal security of tenure for those living in informal settlements and improve living conditions therein; take effective measures to end the segregation of Roma communities and prevent acts of discrimination against those who wished to buy or rent housing outside their segregated settlements; and consult with the communities and individuals affected throughout the eviction procedures, afford due process guarantees and provide those affected with alternative accommodation or compensation.[149]

89. The Committee on the Rights of the Child was concerned that, while Polish law provided for free medical care for Polish nationals, that did not extend to Roma children living in poverty.[150]

90. The Committee remained concerned that participation in preschool, primary, secondary and vocational education remained lower for Roma children than for other children, and that many Roma children still faced difficulties keeping up in mainstream schools or were wrongly placed in special schools owing to their low level of understanding of the Polish language and culturally insensitive testing.[151] The Committee on Economic, Social and Cultural Rights raised similar concerns.[152]

91. The Committee on the Elimination of Discrimination against Women recommended that Poland reduce the high dropout rates of Roma girls from primary education, take effective measures to retain them in school and increase their attendance at the secondary level through temporary special measures and support.[153] UNESCO recommended that Poland implement equal access to education, especially for Roma girls and migrants.[154]

92. The Committee on Economic, Social and Cultural Rights recommended that Poland intensify its efforts in furthering the protection and promotion of the cultural identity of minorities by, among other measures, increasing the provision of resources to assist organizations and institutions working in the area of cultural identities of minorities, and by protecting and promoting the use of national and ethnic minority languages, including in school and in public life.[155]

5. Migrants, refugees and asylum seekers[156]

93. The Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Rights of the Child and UNHCR were concerned that the Foreigners Act still provided for the possibility of placing asylum-seeking children in detention.[157]

94. The Committee against Torture was concerned that foreigners could be expelled from Poland without having their expulsion decision reviewed by an independent and impartial mechanism. It was also concerned that Poland had not been respecting the principle of non-refoulement as it had sometimes refused to recognize a foreigner's refugee status as the reason to refuse extradition to a country where his or her life would be threatened.[158]

95. The Human Rights Committee recommended that Poland refrain from detaining asylum seekers and migrants, implement alternatives and, in cases where individuals were detained, ensure that the detention was reasonable, necessary and proportionate under the circumstances and reassessed over time; ensure that children were deprived of liberty only as a measure of last resort; ensure that access to asylum was not obstructed on grounds of religious discrimination or other grounds prohibited by the Covenant; and establish a system of proper screening to ensure asylum seekers were not returned to a country where there were substantial grounds for believing that there was a real risk of irreparable harm.[159]

96. UNHCR indicated that asylum seekers and refugees living outside of reception facilities faced difficulties in gaining access to sexual and gender-based violence prevention and response assistance, owing in part to geographic distance and/or isolation.[160]

97. UNHCR stated that the national response system on sexual and gender-based violence, known as the "blue line", had limited interpretation services and was not prepared to respond to the particular needs of asylum-seeking and refugee survivors of such violence owing to their limited knowledge of cultural differences and refugee situations, including possible traumatic experiences relating to past persecution.[161]

98. UNCHR noted that, according to Polish law, when medical or psychosocial examinations indicated that a person had been a victim of violence or was disabled, he or she should be provided with support and appropriate treatment during the asylum procedure. However, it was concerned that, in practice, there was limited systematic support available for the proper identification of such persons and their treatment.[162]

99. The Committee on the Rights of the Child was concerned that the procedures for family reunification were not physically and economically accessible by many asylum seekers and refugees and were overly demanding in terms of requirements for documentation and physical verification of applicants.[163]

100. The Committee on the Elimination of Racial Discrimination was concerned that non-citizens, particularly migrants and refugees, were reportedly paid lower salaries and worked longer hours without official contracts.[164]

6. Stateless persons[165]

101. UNHCR noted that the Polish national legal framework still had gaps that might lead to statelessness, particularly the fact that children born to parents who were non-nationals or children whose fathers had denied paternity could not acquire citizenship.[166]

102. According to UNHCR, stateless persons were left in a legal limbo owing to the lack of a statelessness determination procedure. Without a passport or travel documents, they could not leave the Polish territory. In addition, the absence of a work permit prevented access to social benefits and public health care.[167]

103. The Committee on the Rights of the Child was concerned that, according to the 2014 census, 2,000 stateless persons and over 8,000 foreigners with undetermined nationalities, including children, resided in Poland.[168]

Notes

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Poland will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/PLSession27.aspx.
[2] For relevant recommendations, see A/HRC/21/14, paras. 90.1, 90.4, 90.10-90.13, 90.15, 90.20, 90.22-90.25 and 90.29.
[3] See CERD/C/POL/CO/20-21, para. 16, CRC/C/POL/CO/3-4, paras. 63, CEDAW/C/POL/CO/7-8, para. 48, CAT/C/POL/CO/5-6, para. 27, and E/C.12/POL/CO/6, para. 61.
[4] See CEDAW/C/POL/CO/7-8, para. 48, CRC/C/POL/CO/3-4, paras. 63, CAT/C/POL/CO/5-6, para. 27, and E/C.12/POL/CO/6, para. 61.
[5] See CRC/C/POL/CO/3-4, para. 62, and CAT/C/POL/CO/5-6, para. 27. See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19870&LangID=E.
[6] See CAT/C/POL/CO/5-6, para. 27, E/C.12/POL/CO/6, para. 60, and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19870&LangID=E.
[7] UNHCR submission for the universal periodic review of Poland, p. 6. See also CRC/C/POL/CO/3-4, para. 19 (c), and CAT/C/POL/CO/5-6, para. 27.
[8] See CRC/C/POL/CO/3-4, para. 7.
[9] See E/C.12/POL/CO/6, para. 6 (a).
[10] See www.ohchr.org/EN/NewsEvents/Pages/Everyoneturnedablindeye.aspx.
[11] OHCHR, "Donor profiles", in *OHCHR Report 2015*, p. 114. For 2016, see www.ohchr.org/Documents/AboutUs/FundingBudget/VoluntaryContributions2016.pdf.
[12] See http://lib.ohchr.org/HRBodies/UPR/Documents/session13/PL/ImplementationPoland.pdf.
[13] For relevant recommendations, see A/HRC/21/14, paras. 90.30, 90.32-90.35 and 90.61.
[14] See CCPR/C/POL/CO/7, paras. 5-6, E/C.12/POL/CO/6, paras. 8-9, CERD/C/POL/CO/20-21, para. 9, CEDAW/C/POL/CO/7-8, para. 14, and CAT/C/POL/CO/5-6, para. 16. See also http://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart.pdf.
[15] See CCPR/C/POL/CO/7, paras. 5-6, and E/C.12/POL/CO/6, para. 9.
[16] See CERD/C/POL/CO/20-21, para. 9.
[17] See CEDAW/C/POL/CO/7-8, para. 17 (a)-(b).
[18] See CCPR/C/POL/CO/7, para. 18.
[19] UNHCR submission, p. 3.
[20] For relevant recommendations, see A/HRC/21/14, paras. 90.40, 90.45-90.57, 90.60, 90.62-90.71, 90.94 and 90.97.
[21] See CCPR/C/POL/CO/7, paras. 13-14, and E/C.12/POL/CO/6, paras. 10-11.
[22] See CRC/C/POL/CO/3-4, paras. 16 (a) and 17 (a).
[23] See CCPR/C/POL/CO/7, para. 15.
[24] See CAT/C/POL/CO/5-6, para. 25.
[25] See CRC/C/POL/CO/3-4, para. 17 (b).
[26] See CERD/C/POL/CO/20-21, para. 8.
[27] See CCPR/C/POL/CO/7, para. 15.
[28] See CERD/C/POL/CO/20-21, para. 11.
[29] Ibid., para. 10.
[30] Ibid., para. 10.
[31] Ibid., para. 10.
[32] See CAT/C/POL/CO/5-6, para. 25. See also CERD/C/POL/CO/20-21, para. 12.
[33] See CERD/C/POL/CO/20-21, para. 14.
[34] UNHCR submission, p. 3.
[35] See CAT/C/POL/CO/5-6, para. 25. See also CERD/C/POL/CO/20-21, para. 12.
[36] See CRC/C/POL/CO/3-4, paras. 46 (a) and 47 (a). See also CERD/C/POL/CO/20-21, para. 12.
[37] See CEDAW/C/POL/CO/7-8, para. 22.
[38] See CCPR/C/POL/CO/7, para. 10.
[39] For relevant recommendations, see A/HRC/21/14, paras. 90.31, 90.83 and 90.86.
[40] See CRC/C/POL/CO/3-4, paras. 58 and 59 (b) and (f).
[41] For relevant recommendations, see A/HRC/21/14, paras. 90.122-90.124.
[42] See CAT/C/POL/CO/5-6, para. 16 (c).

[43] See CCPR/C/POL/CO/7, para. 12.
[44] Ibid., para. 10.
[45] For relevant recommendations, see A/HRC/21/14, paras. 90.58, 90.72, 90.74-90.77 and 90.95.
[46] See CAT/C/POL/CO/5-6, para. 7.
[47] See CCPR/C/POL/CO/7, para. 26 (a).
[48] See CAT/C/POL/CO/5-6, paras. 18.
[49] Ibid., para. 21.
[50] See CCPR/C/POL/CO/7, para. 26 (b).
[51] See CAT/C/POL/CO/5-6, para. 19.
[52] Ibid., para. 20.
[53] For relevant recommendations, see A/HRC/21/14, paras. 90.87-90.93.
[54] See http://europe.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10056&LangID=E.
[55] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20086&LangID=E.
[56] See CCPR/C/POL/CO/7, para. 7.
[57] Ibid., para. 8.
[58] Ibid., para. 34.
[59] See CAT/C/POL/CO/5-6, para. 18.
[60] See CCPR/C/POL/CO/7, para. 34 (a).
[61] See CAT/C/POL/CO/5-6, para. 9.
[62] See CCPR/C/POL/CO/7, para. 30.
[63] See CAT/C/POL/CO/5-6, para. 8.
[64] See CCPR/C/POL/CO/7, para. 34 (b).
[65] See CAT/C/POL/CO/5-6, para. 8.
[66] See CRC/C/POL/CO/3-4, paras. 44 (c) and 45 (c). See also CAT/C/POL/CO/5-6, para. 13.
[67] See CCPR/C/POL/CO/7, para. 34.
[68] See CRC/C/POL/CO/3-4, para. 54 (b).
[69] For relevant recommendations, see A/HRC/21/14, paras. 90.100 and 90.102-90.105.
[70] See CRC/C/POL/CO/3-4, paras. 22 and 23.
[71] See CCPR/C/POL/CO/7, para. 38 (b).
[72] See UNESCO submission for the universal periodic review of Poland, paras. 60 and 68.
[73] See CCPR/C/POL/CO/7, paras. 37 and 38 (a).
[74] Ibid., paras. 37 and 38 (c).
[75] See E/C.12/POL/CO/6, paras. 25-26.
[76] See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3256747,102809,Poland,2015.
[77] For relevant recommendations, see A/HRC/21/14, paras. 90.82, 90.84 and 90.86.
[78] See CEDAW/C/POL/CO/7-8, para. 26.
[79] Ibid., para. 4 (f). See also CAT/C/POL/CO/5-6, para. 24.
[80] See CRC/C/POL/CO/3-4, para. 50.
[81] Ibid., para. 50 (c) and 51 (b)-(c). See also CEDAW/C/POL/CO/7-8, para. 27 (c) and (e).
[82] See CCPR/C/POL/CO/7, para. 28.
[83] For relevant recommendations, see A/HRC/21/14, paras. 90.31, 90.83 and 90.99.
[84] See CCPR/C/POL/CO/7, paras. 39-40.
[85] See CRC/C/POL/CO/3-4, para. 32 (e)-(f).
[86] Ibid., paras. 33 (a) and (c).
[87] For relevant recommendations, see A/HRC/21/14, paras. 90.44 and 90.114-90.115.
[88] See E/C.12/POL/CO/6, para. 22.
[89] See CEDAW/C/POL/CO/7-8, para. 15 (a).
[90] Ibid., para. 33 (d).
[91] See E/C.12/POL/CO/6, para. 19.
[92] For relevant recommendations, see A/HRC/21/14, paras. 90.29, 90.59, 90.113 and 90.115.
[93] See E/C.12/POL/CO/6, para. 28.
[94] For relevant recommendations, see A/HRC/21/14, paras. 90.59 and 90.113-90.115.
[95] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19870&LangID=E.
[96] See E/C.12/POL/CO/6, para. 35.

[97] Ibid., para. 40 (a).
[98] See CERD/C/POL/CO/20-21, para. 15.
[99] For relevant recommendations, see A/HRC/21/14, paras. 90.39, 90.106-90.110, 90.114 and 90.119.
[100] See E/C.12/POL/CO/6, para. 44.
[101] Ibid., para. 52.
[102] See CAT/C/POL/CO/5-6, para. 23, and CCPR/C/POL/CO/7, para. 23.
[103] See CEDAW/C/POL/CO/7-8, paras. 37 (a)-(b).
[104] See CRC/C/POL/CO/3-4, para. 39 (b)-(c).
[105] Ibid., para. 39 (a)-(b).
[106] See CEDAW/C/POL/CO/7-8, paras. 31 (c) and 37 (d)-(e), and E/C.12/POL/CO/6, para. 49.
[107] For relevant recommendations, see A/HRC/21/14, paras. 90.39, 90.111-90.112, 90.115-90.116 and 90.119.
[108] See CRC/C/POL/CO/3-4, para. 42 (a).
[109] See E/C.12/POL/CO/6, para. 56.
[110] See CEDAW/C/POL/CO/7-8, para. 30. See also CEDAW/C/POL/CO/7-8, para. 32.
[111] See CRC/C/POL/CO/3-4, para. 42 (d).
[112] See UNHCR submission, p. 4, and CERD/C/POL/CO/20-21, para. 15.
[113] See CRC/C/POL/CO/3-4, para. 42 (c).
[114] For relevant recommendations, see A/HRC/21/14, paras. 90.43 and 90.78-90.81.
[115] See CEDAW/C/POL/CO/7-8, para. 11.
[116] Ibid., para. 12.
[117] Ibid., para. 14.
[118] Ibid., para. 15 (b).
[119] Ibid., para. 22.
[120] See CRC/C/POL/CO/3-4, para. 17 (b), E/C.12/POL/CO/6, para. 14, and CCPR/C/POL/CO/7, para. 22 (c).
[121] See CEDAW/C/POL/CO/7-8, para. 25 (b).
[122] Ibid., para. 25 (c).
[123] Ibid., para. 25 (e).
[124] See CAT/C/POL/CO/5-6, para. 22, CCPR/C/POL/CP/7, para. 20, and E/C.12/POL/CO/6, para. 31.
[125] See CEDAW/C/POL/CO/7-8, para. 33 (a) and (c).
[126] See E/C.12/POL/CO/6, para. 24, and CCPR/C/POL/CO/7, para. 22 (b).
[127] See CEDAW/C/POL/CO/7-8, para. 29 (a)-(b).
[128] See CCPR/C/POL/CO/7, para. 22 (a), and E/C.12/POL/CO/6, para. 15.
[129] See CEDAW/C/POL/CO/7-8, para. 39.
[130] For relevant recommendations, see A/HRC/21/14, paras. 90.41 and 90.83-90.86.
[131] See CRC/C/POL/CO/3-4, para. 24.
[132] Ibid., paras. 24 (a) and 25 (a)-(b) and (f).
[133] Ibid., para. 52.
[134] Ibid., paras. 28-29.
[135] Ibid., paras. 26 and 27 (d)-(e).
[136] Ibid., para. 56 (a).
[137] Ibid., para. 48.
[138] Ibid., para. 40 (a), and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19873&LangID=E. See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19870&LangID=E.
[139] See CRC/C/POL/CO/3-4, paras. 40 (a) and (c) and 41 (c).
[140] Ibid., para. 61.
[141] For the relevant recommendation, see A/HRC/21/14, para. 90.18.
[142] See CCPR/C/POL/CO/7, para. 41.
[143] See CRC/C/POL/CO/3-4, paras. 34 (b) and 35 (b).
[144] Ibid., para. 36 (f).
[145] Ibid., para. 35 (c)-(d).
[146] For relevant recommendations, see A/HRC/21/14, paras. 90.114 and 90.117.
[147] See E/C.12/POL/CO/6, para. 17.
[148] See CRC/C/POL/CO/3-4, para. 46 (b). See also CERD/C/POL/CO/20-21, para. 13.

[149] See E/C.12/POL/CO/6, para. 37.
[150] See CRC/C/POL/CO/3-4, para. 37 (g).
[151] Ibid., para. 42 (b). See also CERD/C/POL/CO/20-21, para. 13.
[152] See E/C.12/POL/CO/6, para. 55.
[153] See CEDAW/C/POL/CO/7-8, para. 31 (c). See also CERD/C/POL/CO/20-21, para. 13.
[154] See UNESCO submission, paras. 65 and 66.3.
[155] See E/C.12/POL/CO/6, para. 59.
[156] For relevant recommendations, see A/HRC/21/14, paras. 90.36, 90.39, 90.51, 90.119, 90.121 and 90.118.
[157] See UNHCR submission, p. 4, CAT/C/POL/CO/5-6, para. 13, CRC/C/POL/CO/3-4, para. 44 (a) and CERD/C/POL/CO/20-21, para. 15.
[158] See CAT/C/POL/CO/5-6, para. 12.
[159] See CCPR/C/POL/CO/7, para. 32.
[160] UNHCR submission, p. 4.
[161] Ibid., p. 4.
[162] Ibid., pp. 6-7.
[163] See CRC/C/POL/CO/3-4, para. 44 (d).
[164] See CERD/C/POL/CO/20-21, para. 15.
[165] For relevant recommendations, see A/HRC/21/14, paras. 90.98 and 90.120.
[166] UNHCR submission, p. 6.
[167] Ibid., p. 6.
[168] See CRC/C/POL/CO/3-4, paras. 18 and 19 (a)-(b).